



2025:DHC:11838



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: December 20, 2025**

+ **RC.REV. 210/2020**

SMT SUSHILA DEVI JAIN

.....Petitioner

Through: Mr. Arvind Kumar Gupta, Mr. Abhiesnmat Gupta and Mr. Arun Bhattacharya, Advocates.

Versus

ADESH KUMAR GUPTA

.....Respondent

Through: Mr. Naginder Benipal, Mr. Himanshu Bhandari, Mr. Ankit Singh, Mr. Udit Vaghla, Mr. Jaskaran Singh, Mr. Arjun Baliyan, Mr. Sarkar Sethi and Ms. Kritika Sachdeva, Advocates

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (O R A L)

1. By virtue of the present petition, petitioner (*landlady*) seeks setting aside of the judgment dated 06.07.2020 (*impugned judgment*), passed by learned Rent Controller (South), Saket Courts, New Delhi (*learned RC*), whereby the Eviction Petition filed under *Section 14(1)(e)* of the Delhi Rent Control Act, 1958 (*DRC Act*) being RC ARC 6036/2016 seeking eviction of the respondent (*tenant*) from the shop bearing private no.2 of premises bearing no.12/3, measuring 10 x 45 ft. at Yusuf Sarai, Main Market, New Delhi-110 016 (*subject premises*) was dismissed after a full-fledged trial.

2. Though the erstwhile landlady has raised various grounds in the

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present revision petition, however, Mr. Arvind Kumar Gupta, learned counsel for the landlady has restricted his arguments to the issue of concealment since the same is one of the prime issues which swayed the learned RC to dismiss the Eviction Petition of the erstwhile landlady, despite the categoric assertions made by the landlady in *paragraph 18(c)* of the Eviction Petition. The learned counsel further submits that though the case of the tenant before the learned RC, based on the written statement, was pertaining to shop(s) bought by son of the erstwhile landlady Mr. Devender Kumar Jain. The learned counsel submits that there was no concealment as such, since the said Mr. Devender Kumar Jain was, *admittedly*, the father of Mr. Vaibhav Jain and the subject premises was sought for him and not for his father. More so, whence it was never the case of the erstwhile landlady that the subject premises was required for Mr. Devender Kumar Jain.

3. The learned counsel submits that there was no nexus thereof with the *bona fide requirement* for which the eviction proceeding was initiated by the erstwhile landlady. Even otherwise, the learned counsel submits that it is not the requirement of an eviction proceedings under the DRC Act to disclose all and every premises of the family members of the erstwhile landlady which were not reasonable, suitable, convenient and/ or similar to the subject premises for which eviction was sought. Similarly, there was neither any requirement for divulging subsequent sale of shop(s) by the son of the erstwhile landlady Mr. Devender Kumar Jain.

4. In support thereof, reliance is placed upon the judgment(s) entitled ***Ram Narain vs. Asha Rani & Ors.: (1999) 1 SCC 141, Nisar Ahmed vs.***



Agya Pal Singh in R.C. Rev. No.367/2018, Sunil Kumar Goyal vs. Harbans Singh in R.C. Rev. No.300/2017, Bhairab Chandra Nandan vs. Ranadhir Chandra Dutta: (1988) 1 SCC 383 and S. Harbant Singh Sahni & Anr. vs. Smt. Vinod Sikari: (2012) SCC OnLine Del 2362 and M.L. Prabhakar vs. Rajiv Singhal: (2012) SCC OnLine Del.

5. Mr. Arvind Kumar Gupta, learned counsel then submits that the finding *qua* Mr. Vaibhav Jain being gainfully employed on the basis of a hand-written receipt (*Ex. RW1/3*) as also the visiting card of one M/s. Jyoti Enterprises bearing the names of Mr. Devender Kumar Jain and Mr. Vaibhav Jain (*Ex.PW2/R*) and the subsequent deposition made by Mr. Devender Kumar Jain (*PW-2*) during his cross-examination, could not have formed the basis for the learned RC to conclude that there was a concealment of the same and Mr. Mr. Devender Kumar Jain (*PW-2*) failed to rebut the same since the onus was shifted upon him.

6. Mr. Arvind Kumar Gupta, learned counsel relies upon *Aggarwal Papers vs. Mukesh Kumar Decd. Through LRs.: DLT 2012 (195) 605, Bhupinder Singh Bawa vs. Asha Devi: AIR 2016 SC 5258 and Geeta Kapoor vs. Jaipal & Anr.: 2019 DLT (264) 265* to submit that the landlady was the best judge of her needs. Further, relying upon *Raghunath G Panhale vs. Chaganlal Sundarji & Co.: 1999 (8) SCC 1, Kishni Devi deceased through her legal heirs. vs. Satpal Sachdeva deceased through LRs. & Anr.: 2024 SCC Online Del 434 and Charajit Singh vs. Vivek Jain: 2024 SCC Online Del 613*, the learned counsel submits that the landlady could not have been expected to sit idle during the pendency of the *lis*.



7. Lastly, Mr. Arvind Kumar Gupta, learned counsel submits that in view of the aforesaid, the findings rendered in *paragraph 50* of the impugned judgment is liable to be set aside. The learned counsel further submits that upon demise of the erstwhile landlady, pursuant to the Will dated 21.12.2018 in favour of Mr. Rajinder Kumar Jain, who has been impleaded *vide* order dated 06.07.2023, the Eviction Petition filed by the erstwhile landlady and the *bona fide requirement* professed by her therein is liable to sustain, since what is to be seen is the *bona fide requirement* professed on the date of initiation of the eviction proceedings, as also since it is an undisputed fact that the said Mr. Rajinder Kumar Jain has/had never objected to the present proceedings.

8. *In response*, Mr. Naginder Benipal, learned counsel for the tenant, at the outset, submits that since the erstwhile landlady only divulged about the purchase of shop(s) by Mr. Devender Kumar Jain during subsistence of the eviction proceedings before the learned RC, there was sufficient concealment on her part, which has been duly taken note of and adjudicated in detail by the learned RC. The learned counsel then submits that as held by the learned RC in the impugned judgment, the sole basis professed by the erstwhile landlady on behalf of Mr. Vaibhav Jain was “...
...to start his own setup for graphics designing, website designing, he has experience to start the same... ..”, however, since there was no proof that Mr. Vaibhav Jain had any educational qualification and/ or work experience, the findings rendered by the learned RC *qua* the same, *vide paragraph(s) 58 and 62* of the impugned judgment, require no interference by this Court. For the sake of convenience, paragraph(s) 58 and 62 of the



impugned judgment are reproduce as under:-

“58. The case of petitioner is that Sh. Vaibhav Jain had done the animation course and wanted to start a business of web-designing. In normal circumstances, the petitioner may not be required to examine the grandson for the purpose of proving the bonafide need, however, in light of the aforementioned facts, it was imperative for the petitioner to prove that Sh. Vaibhav had done aforementioned course. The petitioner did not prove any document/ certificate etc. to show that he had done the said course nor he deposed about the institute etc and the year when he passed the aforementioned course.

x x x

62. Thus, in view of the aforementioned discussion, it has to be concluded that the petitioner has failed to prove that the tenanted premises is required for the bonafide need of Sh. Vaibhav Jain as well as the facts that he is dependent upon her accommodation as stated in the petition.”

9. Mr. Naginder Benipal, learned counsel then, drawing attention of this Court to the application under *Order XXII rule 3* read with *Section 151* of the Code of Civil Procedure, 1908 (**CPC**) filed by the legal heirs of the erstwhile landlady, submits that the erstwhile landlady was survived by as many as *five* legal heirs, who have not been impleaded in the present proceedings, so much so, the relationship *inter se* Mr. Rajinder Kumar Jain and Mr. Vaibhav Jain was never established. Learned counsel for the tenant in support of his contention has relied upon the decisions in ***Devender Kumar Choudhary vs. Rambir Singh (Through LRs): RC. Rev. 168/2021*** and ***Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh: (2014) 9 SCC 78***.

10. Learned counsel for the parties have argued at length and have



concluded their arguments respectively.

11. Upon hearing them, as also going through the documents and pleadings on record alongwith the judgements cited by them, this Court notes that since there is no dispute about the existence of *landlord-tenant relationship* inter se the parties, this Court is not required to traverse upon the same.

12. As evident from the aforesaid, the sole reason for initiating the eviction proceedings by the erstwhile landlady was to secure the subject premises for her grandson so that he can commence his business therefrom. It was always an *admitted* position by the parties that the shop(s) were purchased by Mr. Devender Kumar Jain, and neither by the erstwhile landlady nor by Mr. Vaibhav Jain. Despite thereto, the learned RC while dealing with the aspect of *bona fide requirement* professed by the erstwhile landlady has held as under:-

“... That the petitioner is an old lady, aged about 87 years and due to her old age has been suffering with various ailments, like Hypertension, heart diseases, hence the petitioner is finding it difficult to come from Kolkata to take care of properties situated at Delhi hence Special power of Attorney executed in favour of one of the son of the petitioner to file the present case. Original Special Power of Attorney is enclosed herewith as Annexure-P/1.

The petitioner in her old age of 87 years is looking for settling her grandson before her last breath. That the grandson of the petitioner is very much dependant on the petitioner for the purpose of setting up his business as the sons of the petitioner are also having no alternative shop in order to establish him in his business.

That the petitioner requiring the said tenanted shop



bonafidely as the grandson of the petitioner viz. Vaibhav Jain who is 25 years old and is a graduate and completed his animation course and finding it very difficult to get a job hence he decided to start his own setup for graphic designing, website designing who has the experience to start the same.

The petitioner nor her son Davendra Kumar Jain has any other commercial property in Delhi in their names except the said premises to initiate the setup.

The grandson of the petitioner is major, but unemployed. It is therefore the petitioner wished to settle her grandson during her lifetime, and as she nor her above named son does not have suitable space to run his business she bona fide required the tenanted premises.”

13. Based on the material(s) and *admitted* position on record, it was beyond the preponderance of probabilities for the learned RC to have taken external considerations beyond the factual matrix involved therein.

14. In any event, the aforesaid is contrary to the findings rendered by the learned RC in the very same impugned judgment wherein it has also been held as under:-

“46. In the petition, the petitioner had specifically pleaded that neither she herself nor her son Sh. Devinder Jain who is father of Sh. Vaibhav Jain owns any alternative accommodation in Delhi. However, in the written statement, the respondent categorically alleged that Sh. Devinder Jain was owner of property bearing no. 3A, 4A, 5A, 6A, Bhagirath Palace, Chandni Chowk, Delhi. Thereafter, in the replication, the petitioner admitted that the said shops were purchased by Sh. Devinder Jain, but introduced a fresh plea that the said shops were used for godown purposes. This admission in the replication itself shows that the petitioner had made a false averment in the petition to the effect that Sh. Devinder Jain does not own any alternative



accommodation in Delhi.

47. The ld. Counsel for petitioner had argued that the aforementioned shops are used as godown. However, the respondent has proved the copy of sale deed of aforementioned shops as Ex.PW2/R2. As per contents of said sale deed the aforesaid shops bearing no. 3A, 4A, 5A, 6A on the first floor of the property are shops and are not godowns.

48. It has to be reiterated that the aforementioned shops are situated in Bhagirath Place, Chandni Chowk which is also a commercial area. In such circumstances, when the petitioner had concealed the factum of ownership of the said shops, it became even more necessary for the petitioner to lead cogent evidence to establish that the aforementioned shops were being used as godowns and were not lying vacant. However, the petitioner has only made a bald averment in this regard and has not brought on record any document in the form of photograph etc. to prove that the shops were used as godowns. On the other hand, the respondent could not have produced any photographs to show that the aforesaid shops are lying vacant and unutilized.”

15. It is evident from the aforesaid that though there was no specific pleadings to the effect that the erstwhile landlady, or Mr. Devender Kumar Jain, owned “... ..any alternative accommodation... ..” which was reasonable, suitable and convenient for the needs professed in Delhi. Giving an explanation by the erstwhile landlady to the assertions made by the tenant, could not have been treated as a “*fresh plea*”. Even otherwise, the learned RC has stepped into the shoes of the erstwhile landlady by assuming that what was available with her son was similar and/ or replaceable with the subject premises, though it was never the case of the tenant that they were in any manner similar, comparable and/ or akin.



16. *De hors* that, the learned RC has overlooked the various factor(s) like location, size, location, accessibility, intended use, viability, and safety of the property, all of which must be collectively considered whilst determining the availability of suitable *alternative accommodation* which are to be taken into consideration while dealing with the available *alternative accommodations*, if any, as held in ***Akhileshwar Kumar vs. Mustaqim: (2003) 1 SCC 462*** and ***Shiv Sarup Gupta vs. Dr. Mahesh Chand Gupta: AIR 2014 SC 2294***.

17. Further, as held in ***Ram Babu Agarwal vs. Jay Kishan Das: (2010) 1 SCC 164***, neither the educational qualification and/ or the work experience of the landlady and/ or her grandson Mr. Vaibhav Jain were a material criterion/ variable for consideration by the learned RC while adjudicating the Eviction Petition under *Section 14(1)(e)* of the DRC Act.

18. Be that as it may, the learned RC has also ignored the settled proposition of law as held in ***Raghunath G Panhale (supra)***, ***Kishni Devi (supra)*** and ***Charajit Singh (supra)*** to the effect that neither the erstwhile landlady nor Mr. Vaibhav Jain for whom the eviction of the subject premises was sought, were expected to sit idle, neither before/ at the time of filing of the eviction proceedings, nor during pendency thereof, particularly since the erstwhile landlady approached the learned RC for eviction of the tenant from her own subject premises.

19. Furthermore, in view of what has been held in ***Ram Narain (supra)***, since the parties had led evidence and had concluded final arguments based thereon, the issue of concealment stood obliterated.

20. Regarding the non-impleadment of the other surviving legal heirs of



the erstwhile landlady, as held in ***Indian Umbrella Manufacturing Co. vs. Bhagabandei Agarwalla (dead) by Lrs. Smt. Savitri Agarwalla & Ors.:*** (2004) 3 SCC 178 and ***Mohinder Prasad Jain vs. Manohar Lal Jain:*** (2006) 2 SCC 724, an Eviction Petition by one of the co-owners is very much maintainable. In the present scenario where there is no dispute about Mr. Rajinder Kumar Jain being the son of the erstwhile landlady and when none of her other surviving legal heirs have neither sought impleadment nor raised any objection to the maintainability of the eviction proceedings, the same does not hold any water. Similarly, regarding the relationship *inter se* the erstwhile landlady and Mr. Vaibhav Jain, the erstwhile landlady led her evidence by way of affidavit (***PWI***) where under it was categorically stated that “... ..*Sh. Vaibhav Jain, who is aged about 27 years, is my grandson... ..*”, to which there was no cross-examination by the tenant before the learned RC. Moreover, Mr. Rajinder Kumar Jain has/had never objected to the continuance of the present proceedings.

21. For the patent and manifest error(s) on the face of the record, the findings rendered by the learned RC require interference by this Court in revisional jurisdiction. More so, since it has been held in ***Sarla Ahuja vs. United India Insurance Co. Ltd.:*** (1998) 8 SCC 119 and ***Abid-Ul-Islam vs. Inder Sain Dua:*** (2022) 6 SCC 30 that this Court is duty-bound to exercise its revisional jurisdiction so as to rectify the miscarriage of justice and uphold the sanctity of the judicial process.

22. As such, the present revision petition is allowed and the impugned judgement dated 06.07.2020 passed by the learned RC is set aside.

23. *Resultantly*, an order of eviction is passed in favour of the landlord



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and against the tenant. The tenant is directed to vacate the subject premises i.e., shop bearing private no.2 of premises bearing no.12/3, measuring 10 x 45 ft. at Yusuf Sarai, Main Market, New Delhi- 100 016, and handover vacant peaceful and physical possession thereof to the landlord Mr. Rajinder Kumar Jain, *albeit* after expiry of *six months* in terms of *Section 14 (7)* of the DRC Act.

24. Accordingly, the present petition is allowed and disposed of in terms of the above with no orders as to costs.

SAURABH BANERJEE, J

DECEMBER 20, 2025
NA/AKS